

OPINION
56-40

September 13, 1956 (OPINION)

CITIES

RE: Use of Special Funds - General - Funds

This office recently directed an opinion to Mr. Carl Peterson, legal counsel for the Urban Renewal Agency of the City of Fargo, in which it was said that a municipality has the authority to make a loan to an urban renewal agency from the city's contingency fund.

In your letter of September 12, 1956, you state that you are in agreement with this view but wish to know whether the source of the funds would be limited to the city's contingency fund or whether any other funds which the city has available could be used for this purpose. Your letter makes specific reference to the City's Special Assessment Deficiency Fund.

Funds collected by a municipality for one purpose cannot ordinarily be used for any other purpose. Thus in 5 McQuillin, Municipal Corporations (2nd ed.) 1934 it is said that "Municipal funds are either general or special. Certain claims are payable out of the general funds, and ordinarily general funds may be appropriated by the council to any municipal object. So when there is no requirement, by statute or otherwise, that money coming in to the city treasury shall be kept in a special fund and applied to a particular purpose, it is proper, of course, to place it in the general fund, and to use it for general city purposes." . . . "Special funds are often created for the payment of a particular class of claims, and in such case the general rule is that they cannot be used for any other purpose, unless special provision is made therefor; . . ." ID. at 1336. "The charter, in some cities, expressly forbids the transfer of money from one fund to another, or to use the same in payments of demands upon another fund, except, in some cities, certain reserve funds provided for in some charters. Even without such a provision, the well settled rule is that special funds cannot be used for another and different purpose." Id. at 1354.

Since monies in the Special Assessment Deficiency Fund have been collected for a particular purpose, it is clear that they may not be used for any other purpose. The same rule, of course, applies to other city funds which have been collected and earmarked for some particular purpose.

We trust this will answer your question.

LESLIE R. BURGUM

Attorney General